

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

KEVIN R. KING

PLAINTIFF

VS.

CIVIL ACTION NO. 5:04cv232-JCS

DOLAN WALLER, ET AL.

DEFENDANTS

JUDGMENT

This matter is before the Court on the Memorandum Opinion and Order entered this date. The parties have consented, pursuant to 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73, for all proceedings and final judgment to be entered by a United States Magistrate Judge. For the reasons stated in the opinion entered in this cause, the Court finds that the Plaintiff has failed to exhaust his administrative remedies as to his claims of inadequate psychiatric care, denial of basic hygiene items, loss of property, use of excessive force, denial of due process, and denial of his right to practice "his own religious belief." Accordingly, these foregoing claims are dismissed without prejudice. As to his remaining claim of inadequate medical care, the Court finds that summary judgment should be entered in favor of the Defendants, and the claim dismissed with prejudice. The Court also finds that the inadequate medical care claim does not rise to the level of a constitutional violation and should be dismissed as "frivolous." Because one claim of this case is dismissed pursuant to the Prison Litigation Reform Act and 28 U.S.C. §§ 1915(e) and 1915A(b)(1) as "frivolous", the case will be counted as a "strike." If the plaintiff receives "three strikes," he will be denied *in forma pauperis* status and be required to pay the full filing fee to file a civil action or an appeal.

IT IS, THEREFORE, ORDERED AND ADJUDGED that judgment be and is hereby entered in favor of the defendants, and this entire action is dismissed.

SO ORDERED AND ADJUDGED, this the 15th day of August, 2007.

S/ James C. Sumner
UNITED STATES MAGISTRATE JUDGE